

rules, the interim impact on former employees, the meeting of the written requirement for covered plans in connection with implementation of section 89 of the Code, and the issuance by Nov. 15, 1988, of rules necessary to carry out section 89, prior to repeal by Pub. L. 101-140, title II, §203(a)(7), Nov. 8, 1989, 103 Stat. 831.

PART-TIME EMPLOYEE DEFINED FOR PURPOSES OF  
SUBSECTION (f)

Pub. L. 100-647, title VI, §6070, Nov. 10, 1988, 102 Stat. 3704, increased the number of employees who would be excluded from consideration under this section during plan years 1989 and 1990, in the case of a plan maintained by an employer which employs fewer than 10 employees on a normal working day during a plan year, prior to repeal by Pub. L. 101-140, title II, §203(a)(7), Nov. 8, 1989, 103 Stat. 831.

**§ 90. Illegal Federal irrigation subsidies**

**(a) General rule**

Gross income shall include an amount equal to any illegal Federal irrigation subsidy received by the taxpayer during the taxable year.

**(b) Illegal Federal irrigation subsidy**

For purposes of this section—

**(1) In general**

The term “illegal Federal irrigation subsidy” means the excess (if any) of—

- (A) the amount required to be paid for any Federal irrigation water delivered to the taxpayer during the taxpayer year, over
- (B) the amount paid for such water.

**(2) Federal irrigation water**

The term “Federal irrigation water” means any water made available for agricultural purposes from the operation of any reclamation or irrigation project referred to in paragraph (8) of section 202 of the Reclamation Reform Act of 1982.

**(c) Denial of deduction**

No deduction shall be allowed under this subtitle by reason of any inclusion in gross income under subsection (a).

(Added Pub. L. 100-203, title X, §10611(a), Dec. 22, 1987, 101 Stat. 1330-451.)

**Editorial Notes**

REFERENCES IN TEXT

Section 202 of the Reclamation Reform Act of 1982, referred to in subsec. (b)(2), is classified to section 390bb of Title 43, Public Lands.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Pub. L. 100-203, title X, §10611(c), Dec. 22, 1987, 101 Stat. 1330-452, provided that: “The amendments made by this section [enacting this section] shall apply to water delivered to the taxpayer in months beginning after the date of the enactment of this Act [Dec. 22, 1987].”

**§ 91. Certain foreign branch losses transferred to specified 10-percent owned foreign corporations**

**(a) In general**

If a domestic corporation transfers substantially all of the assets of a foreign branch (with-

in the meaning of section 367(a)(3)(C), as in effect before the date of the enactment of the Tax Cuts and Jobs Act) to a specified 10-percent owned foreign corporation (as defined in section 245A) with respect to which it is a United States shareholder after such transfer, such domestic corporation shall include in gross income for the taxable year which includes such transfer an amount equal to the transferred loss amount with respect to such transfer.

**(b) Transferred loss amount**

For purposes of this section, the term “transferred loss amount” means, with respect to any transfer of substantially all of the assets of a foreign branch, the excess (if any) of—

(1) the sum of losses—

(A) which were incurred by the foreign branch after December 31, 2017, and before the transfer, and

(B) with respect to which a deduction was allowed to the taxpayer, over

(2) the sum of—

(A) any taxable income of such branch for a taxable year after the taxable year in which the loss was incurred and through the close of the taxable year of the transfer, and

(B) any amount which is recognized under section 904(f)(3) on account of the transfer.

**(c) Reduction for recognized gains**

The transferred loss amount shall be reduced (but not below zero) by the amount of gain recognized by the taxpayer on account of the transfer (other than amounts taken into account under subsection (b)(2)(B)).

**(d) Source of income**

Amounts included in gross income under this section shall be treated as derived from sources within the United States.

**(e) Basis adjustments**

Consistent with such regulations or other guidance as the Secretary shall prescribe, proper adjustments shall be made in the adjusted basis of the taxpayer’s stock in the specified 10-percent owned foreign corporation to which the transfer is made, and in the transferee’s adjusted basis in the property transferred, to reflect amounts included in gross income under this section.

(Added Pub. L. 115-97, title I, §14102(d)(1), Dec. 22, 2017, 131 Stat. 2193.)

**Editorial Notes**

REFERENCES IN TEXT

The date of the enactment of the Tax Cuts and Jobs Act, referred to in subsec. (a), probably means the date of enactment of title I of Pub. L. 115-97, which was approved Dec. 22, 2017. Prior versions of the bill that was enacted into law as Pub. L. 115-97 included such Short Title, but it was not enacted as part of title I of Pub. L. 115-97.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Pub. L. 115-97, title I, §14102(d)(3), Dec. 22, 2017, 131 Stat. 2194, provided that: “The amendments made by this subsection [enacting this section] shall apply to transfers after December 31, 2017.”